

Wagner-Peyser Employment Services

Wagner-Peyser & Labor Exchange Manual

Missouri Department of Economic Development
Missouri Division of Workforce Development

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INTRODUCTION

The Wagner-Peyser (WP) Act, signed into law in 1933, established a nationwide network of public employment service offices. Also referred to as the Wagner Peyser Act Employment Service, WP is a core program under the Workforce Innovation and Opportunity Act (WIOA); its basic purpose is to improve the functioning of the nation's labor markets by bringing together individuals seeking employment and employers who are seeking workers.

Through the WP Act, each state must administer a public labor exchange system capable of providing services to all employers and job seekers, which includes unemployment insurance claimants, veterans, migrant and seasonal farmworkers, and individuals with disabilities. Additionally, these services must be made available through self-service, facilitated self-help service or staff-assisted service delivery methods.

The Division of Workforce Development's (DWD) automated labor exchange system, referred to as *MoJobs*, hosts the latest tools to provide an efficient way to create that connection as required by the Wagner-Peyser Act.

MoJobs is located online at <https://jobs.mo.gov> and is the central log in for job seekers, employers, and staff to access tools to perform functions applicable to its user. Job seeker services include access to online job opportunities, résumé builder, labor market information, and automated job searches. Employer services include job order postings, advanced recruitment tools, and an applicant tracking system.

WAGNER-PEYSER

The Wagner-Peyser Act, as amended by Title III of the WIOA, not only requires that the State administer a public labor exchange system, but it also requires individuals to be provided basic career services, and allows for the provision of individualized career services.

Basic career services are universally accessible and must be made available to all individuals. Examples include provision of labor market information, provision of referrals to community resources, and eligibility determinations.

Individualized career services must be provided to actual participants after a determination has been made that such services are required to retain or obtain employment. Examples include specialized assessments, developing individualized employment plans, and counseling.

For performance reasons, individuals are categorized as being a Reportable Individual or a Participant, depending on how they are accessing services provided by the program.

A *Reportable Individual* is an individual who has:

- Created a registration in the DWD's labor exchange system;
- Only used the self-service or facilitated self-service part of the system; and/or
- Only received information-only services or activities.

Reportable Individuals will only be able to receive basic career services as outlined above and will be associated with the Self-Service/Registered Individual Only customer group only in *MoJobs*.

*Customer Group:	Self-Service/Registered Individual Only ▼
*Service/Activity Code:	None Selected
Program Application Association:	101 - Orientation
Scheduled Date:	103 - Provision of Information On Training Providers, Performance Outcomes
Scheduled Time:	107 - Provision Of Labor Market Research
Actual Service Date:	110 - ETT Meeting Service
Completion Code:	118 - Outreach and Intake
	158 - Financial Aid Information

A *Participant* is a reportable individual who has received a staff-assisted service that triggers participation in WP and is associated with the Wagner-Peyser customer group. *Participants* can receive both basic career services and individualized career services.

*Customer Group:	Wagner-Peyser ▼
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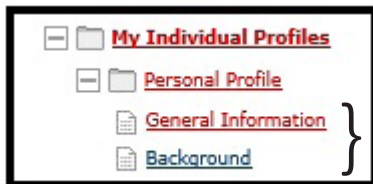
All WP services can be found in the current DWD Issuance regarding Participant Activity Codes & Definitions.

Both *Reportable Individuals* and *Participants* have required data elements that are to be collected for reporting and performance purposes. Because of these required pieces, there are necessary steps staff must take to ensure this information is completed.

Initial Job Center Process

When an individual visits the local Job Center (JC) to utilize the labor exchange system, or are scheduled to meet with a staff person, JC staff are to direct the individual to complete the steps below.

1. Create and/or update *MoJobs* Individual Profile, must include the General Information and Background sections.



This creation and/or update can occur anywhere a person has access to the internet by simply logging in to the *MoJobs* labor exchange system. To help reduce wait time, individuals can complete this information before coming into the JC for a scheduled appointment.

For individuals who have a registration in the system, simple ways to determine if this information needs to be updated can include the following steps:

- Review the General Information section for yellow highlighted sections;
- Ask the individual to verify last four digits of their primary phone number or street address;
- Look at the Background section and ask if employment has changed since the last job listed.

2. Create and/or update *MoJobs* résumé.



The creation and/or update of a résumé can also occur anywhere a person has access to the internet. The résumé is highly recommended to enable the individual to benefit from the full array of system features; also, having a résumé available allows for employers to locate them in the system.

After these steps have been completed, an individual can continue to use the labor exchange system on their own or move forward to meet with staff, whatever the situation may be.

WP Enrollment

Enrollment into WP must be completed on the following individuals:

- Customers who are in need of staff-directed assistance in finding employment;
- Customers that are eligible for, or reporting for, services through the WIOA programs; Veteran's program (if being case managed), Reemployment Services and Eligibility Assessment (RESEA), Trade Act Assistance (TAA) program, Migrant and Seasonal Farmworkers (MSFW), SkillUP program (formerly referred to as METP), Missouri Re-entry Process, etc.;
- Claimants complying with state or federal Unemployment Insurance (UI) laws or regulations that require registration with the public labor exchange as a condition for continued receipt or eligibility for program benefits.

A WP enrollment must be completed before any staff-assisted services are recorded, including job order referrals and/or services that are set to be tracked using the Events Calendar, with the exception of informational workshops. To ensure this is done correctly, it should be verified that the customer has an active WP enrollment in place before the customer receives a seated interview with JC staff.

Depending on the level of participation (*reportable individual or participant*), the enrollment may or may not be complete.

Reportable Individuals will have a WP Application that reads Registration Only and lacks a participation date.

The screenshot displays a web form titled "Title III - Wagner-Peyser" with a red header bar. In the top right corner, it says "Apps: 1". Below the title, there is a link "Create Title III - Wagner-Peyser (WP) Application". A search bar contains the text "WP #2620673 - Registration Only" with a magnifying glass icon. Below the search bar, there are several fields: "LWIA: 09 - Central Region", "Onestop: 199 - JEFFERSON CITY JOB CENTER", and "Total Activities: 0". To the right of these fields, there is a table with the following data: "Application Date: 11/29/2017", "Participation Date: N/A", "Closure Date: N/A", and "Exit Date: N/A". The "Participation Date: N/A" row is highlighted with a black border.

LWIA:	09 - Central Region	Application Date	11/29/2017
Onestop:	199 - JEFFERSON CITY JOB CENTER	Participation Date:	N/A
Total Activities:	0	Closure Date:	N/A
		Exit Date:	N/A

A *Participant* will already have a WP application that reads Complete and has an actual participation date recorded.

Title III - Wagner-Peyser Apps: 1

[Create Title III - Wagner-Peyser \(WP\) Application](#)

☒ **WP #2620673 - Complete**

LWIA:	09 - Central Region	Application Date	11/29/2017
Onestop:	199 - JEFFERSON CITY JOB CENTER	Participation Date:	11/29/2017
Total Activities:	1	Closure Date:	N/A
		Exit Date:	N/A

At times, a WP application may have been completed but lacks a participation date, in this case, the enrollment has not been completed.

Wagner-Peyser (WP) Apps: 1

[Create Title III - Wagner-Peyser \(WP\) Application](#)

☒ **WP #2628751 - Complete**

LWDB:	09 - Central Region	Application Date	12/14/2017
Onestop:	199 - JEFFERSON CITY JOB CENTER	Participation Date:	N/A
Total Activities:	2	Closure Date:	N/A
		Exit Date:	N/A

Any individual required to be enrolled into WP must be a *Participant*. For instructions on how to complete the WP application, refer to the Wagner-Peyser desk aid.

Questions

Any questions regarding the Wagner-Peyser program can be directed to the current WP Coordinator. A list of current program coordinators is available online at <https://jobs.mo.gov/dwdcomms>.

Technical support issues may be directed to the DWD's Technical Support Unit via email or by phone.

Email: dwdsupport@ded.mo.gov

Phone: (866) 506-0251

LABOR EXCHANGE

Registration Requirements

The *MoJobs* labor exchange system allows individuals to access basic information without a log in. However, if a customer seeks to use the system for specific purposes, a registration must be created within the system. Examples include getting referral information for job openings and entering a job order in to the system.

All employers, regardless, must be registered in *MoJobs* so that appropriate services and notes can be recorded as they occur.

Verifying Accounts

Job Center (JC) staff are to verify if an account already exists within the *MoJobs* system before directing any customer to register in the system.

For job seekers, verification is made by performing a search for the job seeker through the 'Assist an Individual' function. Searches can be made using a variety of details, but the most efficient and reliable search method would be the customer's Social Security Number (SSN), or a search using both the First and Last Name. If no registration is found, the process to create an account should be started.

For employers, verification is made by performing a search through the 'Assist an Employer' function. The most efficient search method is by using the FEIN; other useful options into the Legal Business Name in conjunction with the local workforce area. If no registration is found, the process to create an account should be started.

Registration in MoJobs

Job seekers can register themselves through *MoJobs*, establishing an individual user name. The user name can then be used to conduct self-serviced job searches, self-serviced job referrals, create and send résumés, access labor market information, and more.

A registration will be required for the following job seeker customers:

- Customers who want to utilize the *MoJobs* system to find employment.
- Customers that are possible enrollments into the Workforce Investment Opportunity Act (WIOA) programs, Veteran's program (if being case managed), Reemployment Services and Eligibility Assessment (RESEA), Required Job Services (RJS), Trade Adjustment Assistance (TAA) program, SkillUP program (formerly referred to as METP), Missouri Re-entry Process, etc.
- Claimants complying with state or federal Unemployment Insurance (UI) laws or regulations that require registration with the public labor exchange as a condition for continued receipt or eligibility for program benefits.

Employers can register themselves through *MoJobs*, as well. With a user name, a representative for the employer can enter job postings, look for qualified candidates, pre-screen applicants, view and accept résumés from applicants registered within the system, and utilize the built-in applicant tracking system. Employers are registered in the system according to their FEIN. If multiple locations operate under the same FEIN, additional locations have to be created on the employer's record.

An account must be entered for all employers wanting to post a job opening on *MoJobs*. All employer accounts come equipped with a user name to *MoJobs* and require validation of the employer before allowing access to the system. If a

new employer is seeking services, they must have a position for which they are seeking applicants before an account can be created.

JC staff may assist with creating accounts for either user. Creation of the employer account, by either party, will have an account status of 'Pending Verification' until the DWD Technical Support Unit validates the employer, which can take up to 48 hours to complete. In the meantime, job orders can still be entered in to the labor exchange system by staff and will be made available online once the account has been validated. Any questions regarding the validation of an employer are to be directed to the DWD Technical Support Unit at dwdsupport@ded.mo.gov or (866) 506-0251.

Social Security Number (SSN)

The SSN is a required field during the registration process to establish a new job seeker record. The SSN is the key control field for the processing of all of an individual's information pertaining to wages for employment, retention, and median earnings for performance purposes. In instances where a job seeker is hesitant to provide the SSN, staff should explain:

- The State's requirement to maintain confidentiality of their SSN and that the SSN cannot be made public.
- The State's requirement to ensure that the SSN is maintained in a secure, confidential manner.
- The State's reporting system uses the SSN to match the individual's quarterly wage record information to assess the impact of the program's services.

If an individual refuses to provide his or her SSN and still requests workforce services a pseudo SSN can be created during the registration process. However, for those individuals who are receiving benefits through the SNAP or UI programs the actual SSN must be used.

Occasionally, individuals register themselves using an incorrect SSN. If the situation should occur, JC Supervisors and Functional Leaders are able to correct the SSN by following the below procedure:

- Staff should verify the SSN by viewing one of the allowable verification documents: Social Security Card, Social Security benefits letters, DD-214, Employment records which display the SSN, Public Assistance Records which display the SSN, or individual's W-2 form.
- If the individual can substantiate that the SSN is correct, the Supervisor or Functional Leader can make the update to individual's account. A case note is to be entered on the record documenting the change.
- If a correct SSN cannot be determined, the Supervisor or Functional Leader should assign a pseudo SSN using the following procedure.

To edit the SSN assign a pseudo based off of the information below:

- ☐ Enter "9" as the first digit.
- ☐ Enter the last two digits of the jobseeker's birth year as the next two digits.
- ☐ Enter "00" as the two middle digits.
- ☐ Enter the month and date of birth sequentially as the last four digits.

Example:

Date of Birth: February 6, 1977

Pseudo SSN: 977 00 0206

If the pseudo SSN is already being utilized, a unique number may be created by altering the middle two digits consecutively from "00" until an unassigned number is found.

Duplicate Accounts

When duplicate accounts are discovered in the system, staff should verify and confirm which account is the correct account. Upon verification, DWD Supervisors and Functional Leaders have the ability to merge these records. In all cases when a customer has duplicate accounts, the account with the SSN must be used as the primary account. If assistance is needed to merge records, contact the DWD Technical Support Unit via email at dwdsupport@ded.mo.gov.

MoJobs Résumé & Background Information

Employers can conduct searches for qualified candidates using the 'Candidate Search' feature. This search returns only those users with an active résumé attached to their account. Staff should encourage all job seekers to create multiple résumés, with the different occupations fitting their work experiences and desired occupations, to ensure their information will appear in these candidate searches.

A résumé is not required to have access to the labor exchange system; however, some job orders may require a *MoJobs* résumé in order to apply. At minimum, job seekers must complete and/or update their background information, which contains a basic profile for the user, which includes employment history, education and training, licenses and certificates, and skills. For convenience, job seekers should be made aware that the background information can be updated simultaneously while creating a résumé. Best practices for using the *MoJobs* system would have the customer to create at least one résumé upon registration.

Individuals reporting for programs that have a work search requirement must have an active résumé established on their account as part of the registration process.

Job Seekers - Service Policy

It is the policy of the DWD to provide services to all individuals legally seeking employment opportunities. It is the goal of the DWD to maintain a quality labor exchange system and to provide the maximum services possible for job-ready applicants. DWD staff and their partner agencies will utilize their experience, expertise, and judgment to provide labor exchange services for these applicants. Additional services will be provided to customers who are not immediately job-ready. Services may include referral to job counseling, referral to training, and other appropriate resources to assist customers in obtaining employment as quickly as possible.

The following are policies of DWD:

- Give priority in selection and referral to qualified veterans and give disabled veterans priority over other veterans.
- Extend no preference in referral to any applicant or group of applicants (except in accordance with legal requirements).
- Accept an application from any job seeker, legally eligible to work in the U.S., without regard to place of residence, current employment status, or occupational qualifications.
- Obtain from the job seeker only that information which is necessary to determine his or her qualifications for employment and is required to carry out our legal responsibilities.
- Classify a job seeker in terms of all applicable Occupational Information Network (O*NET) codes and assign all appropriate job skills to the individual's record.
- Utilize the applicant's skills, education, training, and interests when referring applicants to job openings.
- Make no referral that will aid, directly or indirectly, in filling a job that is vacant due to the following: the former occupant of the job is on strike, the former occupant of the job is being locked out in the course of a labor dispute, or where the filling of the job is an issue in a labor dispute. With respect to positions not covered by these examples, an individual may be referred to a place of employment in which a labor dispute exists, provided he/she is given written notice of the dispute prior to or at the time of referral.
- Make no referral to a position where the job performed, or the terms or conditions of employment, are contrary to federal, state, or local law.

- Give equitable consideration, based on qualifications, to all registered applicants who have indicated their availability for employment, without regard to their presence in the office at the time of selection.
- Recruit agricultural workers who can commute to and from the job site; and recruit agricultural workers from within Missouri and other states for temporary seasonal employment.

Employer - Policy & Terms of Service

Employers using *MoJobs* must adhere to terms of service provided in this manual and on *MoJobs*. Additionally, employers:

- Cannot sell or repost Job Seeker information found on *MoJobs*
- Must have a bona fide job opening to use *MoJobs* and cannot post job orders for positions that are (1) not currently open for hiring, (2) used as source of sales leads, or (3) related to network marketing or pyramid schemes.
- Must demonstrate that an employer-employee relationship exists as demonstrated by the direct hiring of the employee, such as paying the required federal taxes and provision of W-2s at the end of the year.

JOB ORDERS

Advertising job openings is one of the more common business services offered to employers. This advertisement is done by creating a job order in the labor exchange system. A job order is the document containing the material terms and conditions of employment relating to wages, hours, working conditions, worksite and other benefits, submitted by an employer. Job orders may be posted in the system by the employer, JC staff, or through a batch process which includes external job postings from private job boards, government job boards, newspapers, the National Labor Exchange system, and other external sources.

Job Order Entry Timeline

All job orders received in the morning must be entered into *MoJobs* no later than close of business on that same day. Job orders received in the afternoon must be entered into the system no later than the close of business on the following day.

Obtaining Job Order Information

When an employer contacts the JC for assistance with job order entry, staff can review previous job orders on the employer's plan or use the [Job Order Short](#) Form to obtain the information necessary to enter a new job order. If using a previously entered job order, the job order should be carefully reviewed with the employer to assure that specifications accurately describe the requirements of the new job opening.

If a previous job order is not found in the job order history, JC staff will obtain a description of the basic structure of the job and proceed with entering a job order. The employer should provide information about the significant tasks of the job and for each job listing:

- The job title and job description;
- The method, including the equipment, tools and technology, and materials used;
- The minimum qualification and hiring requirements;
- The degree of speed, accuracy, and tolerance (if applicable) involved;
- Other significant occupational information, or details, necessary to select and refer applicants; and
- Instructions on how to apply for the position.

JC staff should ask general questions about the structure common to all jobs, or develop specific questions about how a specific job may vary. JC staff should avoid questions that may lead the employer to make requirements that are not specific to the performance of the job.

H-2A and H-2B Job Orders

The Foreign Labor Certification (FLC) Coordinator will enter all H-2A and H-2B job orders from Central Office. Any employer, agent, or attorney that contacts the JC inquiring about entering this type of job order must be instructed to contact the FLC Coordinator. The FLC Coordinator may be reached by email at moswa@ded.mo.gov or by phone at (855) 859-2950.

JC staff are expected to issue referrals to these job orders as they would any other job order in the labor exchange system.

H-2A job orders require JC staff to screen all applicants and send approved applications directly to the employer. H-2A contracts (ETA 790) are viewable by staff under the employer's documents tab. These contracts may be reviewed with the job seeker before the application is sent; however, the responsibility for reviewing the contract rests with the employer.

H-2B job orders can be written using any of the available application methods within the labor exchange system. Each job order will have the instructions on how to apply, which are to be followed accordingly.

Agricultural Employment Services (AES) Job Orders

JCs will receive agricultural-related job orders that are not H-2A or H-2B orders. It is the responsibility of the JC staff to enter these job orders into the *MoJobs* system and work these orders just as they would any other job order.

The agricultural employer will need and must receive the same services offered any other employer, including hiring events, referrals of qualified applicants, and other job center opportunities.

All agriculture-related job orders are to be identified with 'AES' in the job title and recorded as AES under the special category section during the job order entry process. Examples of agriculture-related job orders will include job orders for the following positions:

- Agri-Construction (barns, buildings, grain storage, or concrete completed on the farm)
- Agri-Harvesting (hand or equipment harvesting for grain, vegetables, nuts, or fruits)
- Agri-Manufacturing (meat and poultry processing)
- Agri-Business (agricultural sales for equipment and retail products)
- Agri-Tourism (corn mazes, pumpkin patches)
- Agri-Farm Labor (any form of farm labor, livestock feeding, animal care, equipment operator, hand planting/harvesting, etc.)

Job Special Categories

The labor exchange system allows staff to indicate if a job order has been written for a special program. These special categories include Summer Youth Program, Summer Parks Youth Corp (SPYC), Summer Job League, On-the-Job Training, Green Job, Show Me Heroes, Alien Labor Certification, AES, and Federal Contract Job Listings (FCJL). Staff are to record these categories as instructed per their applicable program guidance.

Job Orders in Violation of the Law

If a job order is received and the services to be performed, and/or the terms or conditions of employment are contrary to federal, state, or local law, the JC staff should explain to the person who placed the order why the job order is contrary to the law. JC staff should inform the employer that the job order could not be acted upon by the local JC. If the employer modifies the job where the services to be performed and/or the terms or conditions of employment meet all legal requirements, the job order is accepted. If there is no such modification, the job order is voided and cannot be entered into the system.

Job Orders with Union or Non-Union Specifications

Under the National Labor Relations Act (NLRA), it is an unfair labor practice for an employer to refuse to hire an applicant, if the refusal is motivated by the membership of an applicant in a labor organization.

Job orders specifying membership or non-membership in a labor organization as a condition of employment are in violation of the law, and are not accepted by JCs. Further, an applicant's union or nonunion affiliation is regarded as confidential information and is not disclosed to employers.

Orders from Labor Organizations

JC staff will ascertain the following:

- The labor organization has specific job openings with the employer corresponding to the openings on the job order;
- The specifications on the job order correspond to the employer's specification for filling the opening; and
- The information on the job order is adequate for selection and referral.

When the job order is acted upon, workers are directed to the labor organization or to the employer in accordance with the referral arrangements that have been worked out between the labor organization and the JC.

Job Orders and Labor Disputes¹

When a job order is received from an employer reportedly involved in a labor dispute involving a work stoppage, the Regional Manager must 1) verify the existence of the labor dispute and determine its significance with respect to the vacancy involved in the job order, and 2) notify all potentially affected staff concerning the labor dispute, which must include the Wagner-Peyser Coordinator.

JC staff may not make a job referral on job orders which will aid directly or indirectly in the filling of a job opening that is vacant because the former occupant is on strike, or is being locked out in the course of a labor dispute, or the filling of which is otherwise an issue in a labor dispute involving a work stoppage. For this reason, all job orders received to which the Regional Manager has determined the position is involved in a labor dispute cannot be entered into *MoJobs*. If a job order currently exists online, these job orders must be placed on hold. A note regarding the denial of job order entry, or status change, should be made in case notes on the employer's record.

The Regional Manager must follow up on the labor dispute and notify all parties when the labor dispute has been terminated. Once it has been verified with the employer and workers' representative(s) that the labor dispute has been terminated, full referral services must resume.

Should a position be available with an employer involved in a labor dispute, job orders and job referrals can only be

¹ 20 CFR Sec. 652.9 "Labor Disputes"

processed when the position itself is not at issue in the dispute. In these situations, a written notification must be provided to all applicants referred to such positions that a labor dispute exists at the employing establishment and that the job they are being referred to is not at issue in the dispute. Such a statement can be provided in the job description and must state the minimum information:

“A labor dispute currently exists at this employing establishment. This notice serves as written notification that the position you are being referred to is not at issue in the dispute.”

Job Orders from Employers with a Work Site Located in Another JC’s Administrative Area

All job orders must be tied to the Region and JC entering the job order. In order to effectively serve employers and collect accurate data for the Effectiveness in Serving Employers performance indicator, as required by WIOA, staff must coordinate with the correct local JC for job order entry.

At times, a JC will receive a request to recruit workers from another JC’s administrative area. Due to how employer information is set up, the location information of a job order must reflect the actual worksite location. To assist with these requests, JCs should coordinate recruitment activities with other JCs instead. Suggestions include holding hiring events, distributing flyers, or hosting an employer spotlight event. Duplicate job orders when only one opening exists are prohibited.

Job Order from Employer Requesting Confidentiality

An employer may request confidentiality when placing a job order. Job order confidentiality should not be solicited, however, if the employer requests that company name, address and telephone number be withheld from the applicant, the confidentiality of that employer must be maintained. Under no circumstances will the employer name, address or telephone number be given to an applicant when the employer requests confidentiality. Through discussion with the employer, the staff person taking the job order determines the need for confidentiality, and that an opening does in fact exist. These job orders must be handled as follows:

- The order should be accepted and entered into *MoJobs* as usual. On the ‘Job Order Information to be Displayed Online’ section of the job order, answer “No” when asked to display company name.
- Referrals to this job order must be coordinated through the JC holding the job order and by the JC staff working with that employer. All potential referrals from other JCs for this job order must be coordinated in the same manner.
- Only the individual having job order responsibility should make contact with the employer. Referrals are to be made according to the instructions provided by the employer.
- Follow-up with the employer is the responsibility of the JC holding the job order and the staff person responsible for the job order.

NOTE: This procedure is to be strictly implemented in order to maintain DWD’s integrity when accepting and referring on all job orders where the employer has requested confidentiality. Any deviation from these procedures without prior approval will be referred for appropriate disciplinary action.

DISCRIMINATORY JOB ORDERS & OTHER JOB ORDER VIOLATIONS

JCs are prohibited from providing any employment services to employers who are known by DWD to discriminate in employment on the basis of race, color, religion, national origin, ancestry, sex, disability, or age (applicable to the age group 40 through 69).

Legal Basis

Various laws prohibit DWD from accepting discriminatory job orders, as well as job orders that violate other employment-related laws. Some of these laws are the Civil Rights Act of 1964 as Amended, Age Discrimination Act of 1967 as Amended, Rehabilitation Act of 1973, Vietnam Era Veterans Readjustment Assistance Act of 1974, Missouri Human Rights Act, and The Americans with Disabilities Act of 1990.

Discriminatory or Non-Discriminatory

A discriminatory specification is one in which an employer indicates that they do not want, or prefer, applicants of a particular race, color, religion, national origin, ancestry, sex, age (40 through 69), or individuals without disabilities, except where the stated requirement is a Bona Fide Occupational Qualification (BFOQ).

BFOQ means that an employment decision or request is based on a finding that such characteristic is necessary to the individual's ability to perform the job in question.

A job order specifying that applicants be American citizens is not considered discriminatory, if the specification is based upon a legal requirement of citizenship for workers in certain jobs, or situations. A legal requirement is defined and imposed in the interest of national security pursuant to any statute of the United States or any Executive Order of the President.

If a specification is designed to exclude, or results in the exclusion of, applicants of a particular race, color, creed, national origin, religion, gender or age, it also is a specification discriminating on the basis of these factors even though the factors are not expressed.

Job Orders Requiring a Criminal Record Exclusion

Job orders requiring a criminal background check are allowable. Under the direction of the U.S. Department of Labor (USDOL), Training and Employment Guidance Letter (TEGL) 31-11, the employer must be given 'Notice #1 for Employers Regarding Job Bank Nondiscrimination and Criminal Record Exclusions'. This notification will be provided through *MoJobs* when the employer logs into the system for the first time, to which the employer must click 'Next' confirming they have read and agreed to the notice.

If a job order indicates that a background check is part of the hiring process, a link containing 'Notice for Employers Regarding Job Posting Containing Criminal Record Exclusion' will be present for the employer to read. JC staff entering a job order on behalf of an employer must send this notice to the employer through email, fax, or the mail.

TEGL 31-11 also calls for a notice to be provided to job seekers when a criminal record exclusion exists. This notice will be made available to job seekers when viewing any job order during the job search process as a link labeled 'notice regarding job postings that may contain exclusionary criminal record criteria'. When staff provide a referral to a job order with a background check listed in the 'Hiring Requirements' section of the job order, this notice should be printed and given to the job seeker.

Instructions on how to utilize *MoJobs* to meet these requirements are found in [Attachment 1](#) of this manual.

Substandard Orders

If a job order is received that specifies wages that are below the minimum established by federal or state law, and the job order is subject to the minimum wage law, JC staff will explain to the employer that the job order cannot be entered in *MoJobs* because the wages specified are below the legal minimum. If the employer does not change the order, JC staff will call the job order to the attention of his/her supervisor, manager, or functional leader, for a decision on the proper course of action.

Suspected Violations in the Job Order

If JC staff observes or has reason to believe that an employer or employer representative is attempting to enter a discriminatory requirement or information that goes against other employment-related laws into the job description, the staff person must stop the process immediately, document the suspected violation and refer to the local JC supervisor.

At this point, the following steps should occur:

1. If the employer has filed a job order within the last 12 months, the supervisor must attempt informal resolution.
2. If the employer has not filed a job order within the last 12 months, the suspected violation of the employment-related law must be referred to the appropriate enforcement agency in writing.

Questions regarding the apparent violations process are to be directed to the State Monitor Advocate.

Job Orders Involving a Charge

Job orders that indicate that a charge, fee, or that costs will be incurred in order to bring the worker and employer together, are not allowable. When a job order is placed which would result in a charge being made, JC staff will inform the employer or the agent recruiting for an employer that no action may be taken by the JC to select or refer workers to the job opening. No action may be taken on orders which require the purchase of demonstration kits or products in order to be offered employment.

Orders requiring a license, safety equipment, police reports, physicals, etc., prior to hire, may be taken and served.

Job Orders Involving Youth

JC staff will inform the employer that such referrals of Youth are made only in accordance with local, state, and federal laws concerning school attendance and child labor standards.

Employer Request for Workers without Placing Bona Fide Job Orders

JCs must exercise care to ensure that job seekers are provided referrals to legitimate job openings. When an employer requests referral of applicants under circumstances that do not constitute a bona fide job order, referral services are withheld on the request. The JC's order-taking and applicant-referral procedures are explained to the employer. Such employer requests may include:

- **Requests to build up lists for future use:** When a request to enter a job order for a position that is not actually available has been made, the JC should explain that such job orders cannot be entered. Job orders can only be entered into the labor exchange system when the position actually exists, not to supply the employer with an applicant pool for future use.
- **Illegitimate offers:** When requests for workers are received from employers who are unknown to the JC, reasonable care should be exercised to ensure that these requests are from genuine employers and represent

actual job opportunities. For example, referrals to domestic jobs, application and/or interview instructions which indicate unusual methods, or job orders from unknown employers. Such requests are to be received with caution.

- **Self-Employment Opportunities (Independent Contractor):** When job order information is obtained for a self-employment opportunity (a job opening in which the employee functions independently from the employer) the information will not be entered into *MoJobs*. The firm requesting applicants is informed that the JC will assist in every way possible through the following procedures:
 - Information provided by the firm describing the job duties, specifications, requirements, contracting information, and other pertinent details will be posted in or near the applicant waiting area in the JC for up to sixty (60) days. The information posted must be occupationally specific, to the extent possible, so as not to mislead job seekers who may wish to apply.
 - It is important that any potential applicant understand self-employment (independent contractor) responsibilities are different from one working for wages or salary. Accordingly, a self-employment (independent contractor) notice will be posted either on the solicitation itself or near the job postings. At minimum, the self-employment (independent contractor) notice must clearly state the following:
“Earnings and wages are subject to taxes. As a self-employed individual (independent contractor), certain benefits, and tax payments normally handled through withholding and/or employer payments may not be paid by companies offering self-employment. As a self-employed (independent contractor) individual, you may be liable for your own payment of certain federal, state, and local taxes; and so forth. Be sure you understand how all taxes, contributions, and benefits will be paid.”
 - All self-employment (independent contractors) notices posted by the JC supervisor, manager, or functional leader must be initialed and dated prior to posting.
 - Applicants expressing an interest in self-employment (independent contractor) will be provided information necessary to contact the firm for additional information or to schedule an interview.
 - Any activity generated by this type of solicitation, will not be recorded as a referral or placement by JCs, but will be considered as a public service to firms seeking individuals and to applicants interested in such opportunities.

Suspected Fraudulent Job Orders

At times, staff may encounter a job order in the system that appears to be fraudulent. Typically, these job orders will consist of unusual application methods, misspelled words or poor grammar, or offers a way to get rich fast. Some ways to identify these job orders will include details that 1) request the applicant meet at a hotel or other address that is not a business address, 2) indicate the individual will be sent a cashier's check, or even 3) request an interview over an online chat system.

If staff have reason to believe that a job order is fraudulent, the JC supervisor or Functional Leader should put the job order on a temporary hold and then contact TSU for an appropriate investigation.

DISCONTINUATION OF SERVICES

There are various reasons the discontinuation of services to employers must occur:

- An employer refuses to alter or withdraw a job order containing specifications which are contrary to employment-related laws;
- An employer is found by a final determination by an appropriate enforcement agency to have violated employment-related laws;
- Employer has repeatedly caused the initiation of discontinuation of services; or
- Employer has violated rules associated with the H-2A or H-2B process.

Discontinuation of services are to be directed to the State Monitor Advocate.

APPLICATIONS

Who May File Applications for Work

An application for work may be accepted from any individual legally eligible to work in the U.S., age 14 and above, without regard to place of residence, current employment status, or occupational qualifications (with the exception of bona fide occupational qualifications).

Use of an Employer's Application Form by JC Staff

The Missouri Human Rights Act (MHRA) makes it illegal to discriminate in any aspect of employment because of an individual's race, color, religion, national origin, ancestry, sex, disability or age as part of the hiring process, including terms and conditions of employment. JC staff will review all employer applications for inquiries that may lead to discrimination. If no discriminatory inquiries are found, the employer's application may be provided to the applicant at the point of referral. The application will be completed by the applicant and delivered to the employer in the method agreed to by the employer and JC staff.

Examples of inappropriate pre-employment inquiries include:

- What religion do you practice?
- What religious holidays do you observe?
- How much longer do you plan to be in the workforce?
- Are you expecting or plan to have children in the near future?
- Do you take any medications?

If discriminatory inquiries are suspected, the local JC supervisor is to follow the same the procedure outlined in the 'Suspected Violations in the Job Order' section of this manual.

Use of MoJobs Application Form

When an employer asks JC staff to collect job applications but does not provide one of its own, the *MoJobs* application should be generated from the applicant's *MoJobs* account. This application is found under **My Individual Plans → Online Application**.

CASE NOTES & SERVICES

Case notes are to be entered on to the customer's record upon interaction. This applies to both job seeker and employer interactions. All case notes should follow DWD's most recent Issuance regarding case notes.

Activities, also referred to as services, are to be recorded on the customer's record for both job seekers and employers. The recording of services is imperative, as these services are necessary for federal reporting purposes and are also part of the One-Stop Certification process. Refer to the correct DWD Issuance regarding Participant Activity Codes & Definitions for a complete list of participant and employer service codes.

MOJOBS MISCELLANEOUS

MoJobs Statuses

All new employers registered in *MoJobs* will be validated through the DWD's Technical Support Unit. Employers awaiting validation will have an *Employer Access Right* status of Pending Verification. If staff assist in the creation of a new employer account, contact TSU and provide the employer name.

Upon entry into *MoJobs*, all job orders will display a *System Status* of Veteran Hold. Job orders with a system status of Veteran Hold are only viewable to Veterans registered in the *MoJobs* system. The Veteran Hold status remains in effect for approximately 24-48 hours and will automatically update to Open and Available after it expires.

Manage Labor Exchange Tools




The *MoJobs* system has a variety of tools that must be used to ensure the uniform delivery of services statewide.

Referrals Pending Review is a tool that is to be used daily by a designated staff person from each Center. This tool holds all job orders that must be screened by staff before issuing a referral to a job seeker. If a job seeker meets all the minimum requirements set forth in the job order, the designated staff person must provide the referral. If the job seeker does not meet the minimum requirements, a referral should not be issued. Job Seekers without an active WP enrollment cannot be issued a job order referral until the WP enrollment has been completed.

Notifications are a way to inform job seekers that they are qualified for a job opening that currently exists in the labor exchange system. This notification will be sent in the method the job seeker selected during registration. This will allow the job seeker to review the job order and make a self-referral should they choose. Notifications are to be sent to qualified job seekers after a job order has been entered into *MoJobs*. The most efficient path to issue notifications is through **Manage Labor Exchange → Mass Job Referrals**.

Job Orders & Job Matching

MoJobs has an exceptional matching capability that compares an individual's background information to a job order to determine how well of a fit the individual is. This matching process includes three distinct areas: General Requirements, Specialized Requirements, and Skills Match.

- General Requirements Match – score displays a circle percentage . This percentage is a ratio of the total match for all the general requirements associated with the job order. General requirements for the job include related occupation, educational level, work experience, location, and salary.
- Specialized Requirements Match – score displays a circled Yes or No . Specialized requirements include shift, minimum age, driver's license, typing speed, security clearance, and language proficiency.
- Skills Match – score displays a circle percentage . This percentage reflects how the individual's skills compare with those required for the job order or those typically associated with the O*NET occupation chosen if skills were listed. Skills matched include job skills, workplace skills, tools and technology, and personal skills.

Staff can determine how well an individual matches a job order's requirements using these same features. To facilitate the most appropriate matches within the system, information required for the job order should include:

- The content of the job to determine the minimum qualifications a worker must possess in order to perform the job satisfactorily,
- The minimum hiring requirements, including required skills, tools and technology needed, which have been established by the employer,
- Information that may influence an applicant's acceptance of the job offer, such as salary, hours of work, location, and working conditions.
- Information that is necessary for the referral of an applicant to an employer for the job interview.

When a job order has been entered on behalf of an employer, staff should facilitate a match for qualified candidates. These individuals should be issued a notification of the opening to which they are qualified for; a referral must not be issued as part of this process.

Job Order Consistency

To ensure consistency in writing job orders, staff should follow the same rules when entering job orders.

Job Title – The job title should reflect the title for the position given by the employer.

Job Occupation – Job occupation chosen must match the job description of the duties performed. In the event that the job covers multiple occupations, staff should choose the one that best fits the majority of duties performed.

Location/Worksite – The Location must align with the worksite associated with the job order.

Contact Person – The Contact person should be the person staff may contact if there are any questions associated with the job order.

Positions – Reflects the total number of positions the employer has available to fill.

Last Date Displayed on System – Defaults to 60 days out and should be dependent on the position and the needs of the employer.

Special Categories – Special categories must be marked on the job order following specific program guidance. Special categories include Summer Youth Program, Summer Parks Youth Corp, Summer Job League, Alien Labor Certification, On the Job Training, Green Job, AES, Show Me Heroes, and FCJL.

Job Description - The job description contains pertinent information for the job opening and can include details regarding requirements to be considered for an interview. Staff should use the job description provided by the employer but ensure the job description does not contain discriminatory language. If the employer requests assistance with writing a job description, staff can refer to the sample text associated with the occupation for guidance. The job description should be verified/approved by the employer to ensure the description is accurate and correct. No information about the employer shall be contained in the job description, if staff written. If text is copied and pasted into the Job Description field, staff should use the 'Remove All Formatting' link to avoid possible formatting issues.

Skill Set – Skills should be entered based on the information provided by the employer. Because default skills may not reflect the true minimum requirements to be considered for the position, default skills for the occupation should not be selected.

Tools and Technology Skills –Tools and Technology skills should only reflect the minimum skills required to be considered for the position as provided by the employer. Because default skills may not reflect the true minimum requirements to be considered for the position, default tools and technology skills should not be selected.

Other Skills – Other skills can be entered in the provided text box if provided by the employer. Examples of other skills include specific degrees, certifications, and software.

WorkKeys® – A preference regarding WorkKeys® scores can be entered by selecting the ‘Yes, prefers’ or ‘No’ radio buttons. A job order cannot state that an employer requires specific scores or the National Career Readiness Certificate.

Minimum Education and Months of Experience – Enter the minimum education and months of experience required to be considered for the position. If the employer will consider a combination of education and experience, this information should be reflected in the job description.

Driver’s License – If a driver’s license is required to be considered for the position, staff should indicate the type of license required. Options include Class A, Class B, Class C, Chauffeur License, and Class F.

Shift – Only one shift can be selected per job order. If a job order covers multiple shifts, staff should select the most appropriate option available. Options for shifts include Day, Evening/Swing, Graveyard, Rotating, Split, Other See Job Description, Not Applicable, and Flexible.

Job Application Methods: Check the application method(s) the employer has provided during the job order taking process. The employer should be made aware of the different application methods that *MoJobs* has available. The default method is set to the Résumé Online method, however, this can be unchecked if the employer designates applications to be made any other way. A text box is available to provide a brief description of the application process. This text is displayed online to job seekers and is not to include any counselor instructions.

Staff Online Resources

MoJobs is equipped with numerous staff online resources. To access guides for writing job orders, registering employers or job seekers, or other needs as they arise, visit the **Staff Online Resources** tool, located under **Other Staff Services**. Other resources, such as desk aids, can be found online through the Learning Management System (LMS).

Questions

Any questions regarding the labor exchange services can be directed to the current WP Coordinator. A list of current program coordinators is available online at <https://jobs.mo.gov/dwdcomms>.

Technical support issues may be directed to the DWD’s Technical Support Unit via email or by phone.

Email: dwdsupport@ded.mo.gov

Phone: (866) 506-0251

RELATED GUIDANCE

Issuances

All current issuances are located at <https://jobs.mo.gov/dwdissuances>.

02-2017: Statewide Case Note Policy

08-2017: Participant Activity Codes & Definition

DWD TSU Desk Aids

The below desk aids can be found under the Staff Online Resources section of *MoJobs*.

- Adding Employer Services
- Adding Wagner Peyser Services
- WP Enrollment Process

How to Enter a Job Order that Requires a Background Check in MoJobs

Following USDOL's Training and Employment Guidance Letter (TEGL) 31-11, employers and job seekers should be provided information regarding federal civil rights laws when a job order indicates that background checks are required, as these could potentially exclude individuals based on arrest and/or conviction history. This information is disseminated via **notice #1** and **notice #2** for employers and **notice #3** for job seekers. In Toolbox 2.0 (TB2), these notifications would pop up after staff entered a job order requiring a background check, and upon referring a job seeker to an applicable job order.

Within MoJobs, the delivery of these notifications is a bit different and is provided through links to the notification itself. Employers and job seekers will have the ability to click on the link and read the information contained within the appropriate notice.

Notice #1

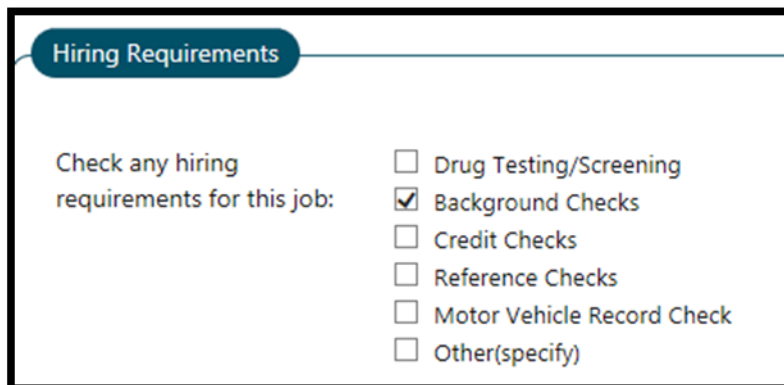
Notice #1 appears when an employer contact logs into their account the first time. The notice requires the employer to review and click through the entire notice, before accessing their account.

Notice #2 & Notice #3 & the Job Order Entry Process

When staff work with a customer, either an employer or a job seeker, and a job order indicates a background check is required, staff must provide the appropriate notice letter, as done previously. Employers can be provided **Notice #2** internally through the message center or by emailing the notification; both of which can be completed in the MoJobs system itself. Staff can provide **Notice #3** to job seekers by clicking the link and printing off the notification at the time of referral.

To ensure these links and notifications are available, staff must make certain that job orders are entered correctly to reflect that 1) a background check is required and 2) the job order may exclude applicants based off their arrest/conviction record. This is a two-step procedure during the **job order entry process**:

1. Under the Hiring Requirements section of the job order, select that background checks are required.



Hiring Requirements

Check any hiring requirements for this job:

- ☐ Drug Testing/Screening
- ☒ Background Checks
- ☐ Credit Checks
- ☐ Reference Checks
- ☐ Motor Vehicle Record Check
- ☐ Other(specify)

2. Under the Staff Information section of the job order (very last page) answer 'Yes' to the statement that says, "This job order allows exclusion of individuals based on arrest and/or conviction history."

This job order allows exclusion of individuals based on arrest and/or conviction history. ☒ Yes ☐ No

Providing the Notices to the Employer or Job Seeker

Upon completing the second step, staff should then *send* **Notice #2** to the employer by selecting 'Yes' on the next question that appears. **Notice #2** can be sent via Message Center, Email, or Both.

Would you like to send this employer a copy of the TEGl notice? ☒ Yes ☐ No

How would you like the TEGl notice delivered? ☒ Message Center ☐ Email ☐ Both (If Available)

If the employer is present during the **job order entry process**, staff can *print* **Notice #2** and hand it to the employer by clicking on the appropriate link found toward the bottom of the page.

REMINDER: You have 30 days from the create date to complete the job order wizard before it is deleted from the system.

[Notice regarding job postings that may contain exclusionary criminal record criteria](#)

[Notice regarding job postings that may contain exclusionary unemployment status criteria](#)

[Notice regarding job postings that may contain exclusionary credit history criteria](#)

During a **staff job order referral**, the link that provides **Notice #3** will be also be found toward the bottom of the page. Clicking on the notice will open a new screen which staff will *print* and hand to the job seeker.

[Notice regarding job postings that may contain exclusionary criminal record criteria.](#)

To display more information including how to apply for this job, click the button below.

How to apply for this job

As a reminder, the "hiring requirements" and the "staff information" fields must be filled out following the two-step procedure for these links to be available to both employers and job seekers. Any questions regarding this can be directed to the Technical Support Unit at dwdsupport@ded.mo.gov or (866) 506-0251.